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FEB 15 2005

OFFICE OF PETITIONS

In re Application of :
Gomes et al. :
Application No. 10/807,032 : DECISION REFUSING STATUS
Filed: March 23, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 066470-011 :
:

This is in response to the renewed petition under 37 CFR 1.47(a), filed January 31, 2005 (certificate of mailing January 21, 2005). Applicants obtained a two-month extension of time to respond. Accordingly, the renewed petition is filed timely.

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicants lack item (2) as set forth above.

As to item (2), applicants failed to submit an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64. As stated in present petition, applicants

amended the declaration to include the country of citizenship, mailing address and residence of inventor Mishra. Specifically, applicants typed the required information as to inventor Mishra on the previously executed declaration. The Manual of Patent Examining Procedure states: "The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed." MPEP 602.01. "If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required." Id.

As stated above, applicants are not permitted to amend an executed declaration. Accordingly, applicants must submit a new declaration in compliance with 37 CFR 1.63 and 1.67, which identifies the entire inventive entity and the correct mailing address and citizenship of each inventor and is signed by the signing inventors on behalf of the nonsigning inventors, Mr. Mishra.

A second petition fee is not necessary. Accordingly, the \$200.00 petition fee will be refunded to Deposit Account No. 50-1946.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

By mail: Mail Stop Petition
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P.O. Box 1450
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By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
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Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell
Christina Tartera Donnell
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